The Land Acquisition Collector and others. ……. Respondents.

Coram

The Hon'ble Mr.Justice Deepak Gupta, Judge.

The Hon'ble Mr.Justice Surinder Singh, Judge.

Whether approved for reporting?

For the petitioner: Mr. Mr. M.S. Chandel, Advocate General with
Mr. R.M.Bisht, Dy.A.G. for the petitioners

For the respondents: 2 to 9. Mr. Sandeep Kaushik, Advocate.

None for respondent No.1.

Deepak Gupta, J.(Oral).

The short question involved in this writ petition is whether the Collector has the power to condone the delay in filing a petition under Section 28-A of the Land Acquisition Act, 1894.

Admittedly, in the present case the land of the respondents was acquired vide notification under Section 4 of the Land Acquisition Act issued on 23.10.1981. The Land Acquisition Collector announced the award on 27.10.1986. The respondents did not choose to file reference petition under

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Whether reporters of local Papers may be allowed to see the judgment?

limitation, but purporting to exercise powers under Section 5 of the Limitation Act, he has condoned the delay.

Mr. M.S. Chandel, learned Advocate General, relies upon the judgment of the Apex Court in **State of Andhra Pradesh and another** v. **Marri Venkaiah and others** **2003 (2) SLJ, 1654**, wherein the Apex Court held as follows:

> "Plain language of the aforesaid Section would only mean that the period of limitation is three months from the date of the Award of the Court. It is also provided that in computing the period of three months, the day on which the award was pronounced and the time requisite for obtaining the copy of the award is to be excluded. Therefore, the aforesaid provision crystallizes that application under Section 38-A is to be filed within three months from the date of the award by the Court by only excluding the time requisite for obtaining copy. Hence, it is difficult to infer further exclusion of time on the ground of acquisition of knowledge by the appellant.
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> Further the judgment rendered by the High Court is contrary to the decision rendered by this Court in ***Tota Ram Vs. State of U.P. and others, 1997 (6) SCC 280*** wherein this Court held that limitation begins to run from the date of the award and as per the proviso the time taken for obtaining the certified copy of the award and the decree is to be excluded in computing the period of three months. The Court held that in view of the express language the

In view of the clear cut law laid down by the Apex Court, it is beyond the pale of controversy that a petition under Section 28-A of the Land Acquisition Act has to be filed within three months of the passing of the award on the basis of which such petition is sought to be filed by re - determination of the compensation. There is no power to condone the delay in such cases.

In view of the above discussion, the writ petition is allowed and the order of Land Acquisition Collector dated 6.6.2001 is quashed and the petition filed by the respondents under Section 28-A of the Land Acquisition Act are dismissed as being barred by limitation.

C.M.P. No.604 of 2004.

In view of the disposal of the writ petition, this application is also disposed of. Interim order dated 25.4.2004 is vacated.

(Deepak Gupta)
Judge.

December 27,2006.
(PDS)

(Surinder Singh)
Judge.